

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CITY OF STOCKBRIDGE, GEORGIA;)
et al.,)
)
Plaintiffs,)
)
v.)
) Civil Action No. 1:18-CV-03961-LMM
TINA LUNSFORD, et al.,)
)
Defendants.)

**DEFENDANTS' RESPONSE TO PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

COME NOW, Defendants, Henry County Board of Elections and Registration; Tina Lunsford, individually and in her official capacity as Henry County Elections and Registration Director; Andy Calloway, Mildred Schmelz, Jon Kirkpatrick, Dan Richardson, and Arch Brown, in their individual and official capacities as members of the Henry County Board of Elections and Registration (collectively "Defendants"), by and through their undersigned counsel, hereby respond to Plaintiffs' Motion for Preliminary Injunction ("Motion") as follows:

I. Introduction

The Defendants in this case have no opinion about the merits of the Plaintiff's arguments in support of its Motion. The Defendants are duty bound to perform the duties assigned to them under the law. Defendants Andy Callaway, Mildred Schmelz, Jon Kirkpatrick, Dan Richardson and Arch Brown serve on the Henry

County Board of Elections and Registration (the “Board”). The Board serves as election superintendent for Henry County.¹ Tina Lunsford (“Lunsford”) serves as the elections’ supervisor.²

The Board and its Executive Director, Tina Lunsford, are charged with preparing and conducting elections within Henry County, Georgia. It is of utmost importance that, in the performance of their duties, the Board and Lunsford refrain from any action which would tend to indicate or evidence a preference for any particular outcome of any matter submitted to the voters. In order to preserve their impartiality, neither the Board nor Lunsford assert any position with respect to the claims asserted in Plaintiff’s Complaint or the relief sought in the pending Motion.

II. Status of the Election

However, in order to assist the Court in its consideration of the Motion, the Defendants have taken the following actions in furtherance of their duties under Act No 548 (the “Act”).

Section 7.13 of the Act calls for the Defendants to: “...*call a special election for the purpose of submitting this Act to the qualified voters of the proposed City of Eagle’s Landing,*” The special election is to be held in connection with the November 2018 general election, which is to be conducted on November 6, 2018.

¹ Section 1 – Ga. L. 2006, p. 4062

² Section 15 – Ga. L. 2006, p. 4062

Towards this end, the Defendants have properly issued the call for the election pursuant to O.C.G.A. §21-2-540. Further, the Defendants have caused the ballot to be prepared for consideration of the referendum question on November 6, 2018. Paper ballots have been printed and electronic ballots have been prepared. Pursuant to O.C.G.A. §21-2-384(a)(2), ballots for early voting will be mailed out beginning on September 18, 2018.

Further, the ballots have been properly loaded on to the voting equipment to be utilized at the November 6, 2018 election. Advanced (absentee-in-person) voting begins on October 15, 2018 in accordance with O.C.G.A. §21-2-385(d)(1).

The total costs incurred in preparation for the Referendum are estimated to be \$14,560. No further substantive efforts are required on the part of the Defendants until the votes have been cast and are ready to be tallied.

III. Conclusion

The Defendants stand ready to proceed with the Referendum as called for under the Act and stand equally ready to cease such efforts if so ordered by this Court.

Respectfully submitted, this 21st day of September 2018.

LINDSEY & LACY, PC

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CERTIFICATE OF SERVICE & COMPLIANCE

I hereby certify that the foregoing ***DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION*** has been prepared in compliance with Local Rule 5.1 by using Times New Roman, 14-point font and I have served the foregoing to the Clerk of Court using the CM/ECF system which will automatically send electronic mail notification of such filing to the following attorneys of record who are CM/ECF participants:

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Respectfully submitted, this 21st day of September 2018.

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